
Date: July 14, 2019
To: Environmental Quality Commission
From: Richard Whitman, Director
Subject: Agenda item P, Informational item: Director's report
July 18-19, 2019, EQC meeting

1. Agency Management

1.1 Environmental Data Management System (EDMS)

In early June, the EDMS team met with the Leadership Team to discuss the overall project timeline, with an agreement to have the final scope of the first wave of implementation by July 31, 2019. The EDMS project team, along with Leadership Team members and selected subject matter experts from the divisions and programs, met with representatives from enfoTech, the EDMS vendor, June 11 through 14. During that week, the groups reviewed project demos and held workshops to review current workflow and what information is needed to implement the first wave of the system.

The team continues to provide information to all staff thorough direct emails and maintains a presence on the agency's internal web resources.

1.2 Two New Leadership Team Members (New Central Services Division Administrator and New Communications Manager)

We are very pleased to announce two important agency appointments.

First, Brian Boling (formerly the Administrator for DEQ's Lab) has accepted the position of DEQ's Central Services Division Administrator. Brian was selected after a very competitive recruitment, with several other qualified applicants. Brian's proven experience in key areas for CSD, his leadership and his professionalism brought him to the top of the list. Brian has done a phenomenal job as Interim CSD Administrator following Scott Brewen's departure, and we are thrilled he will continue on in a permanent role. Brian's began as CSD Administrator on July 1, 2019.

Second, Harry Esteve joins DEQ on July 15 as our Communications Manager. Harry comes to DEQ with extensive experience in strategic communications, writing and managing teams. Harry served as a top political reporter for the *Oregonian* for 15 years, was a senior writer for university communication for PSU, and most recently led strategic communications and outreach

for Portland Public Schools. Harry will supervise DEQ's communications team, and will report to Nancy Bennett, Policy and External Affairs Manager.

Leah Feldon will begin the recruitment process for the LEAD Administrator position very soon. In the meantime, the lab managers will continue rotating the Administrator duties as they so ably have the last few months. A special thanks to the Lab managers who have stepped up and supported the Agency's laboratory through the interim period and through this next phase of recruitment.

2. Air Quality Division

2.1 Non-Road Diesel Engine Survey Project

DEQ hired Eastern Research Group to conduct a statewide survey of off-road (nonroad) diesel engines. Eastern began work on Aug. 28, 2018. A project kick-off meeting was held in Portland on Sept. 19, 2018. Since the kickoff meeting, DEQ has held weekly check-in calls with ERG and convened numerous additional meetings and conference calls with trade associations. ERG will use sector-provided survey data to improve upon the statewide diesel related pollution estimates from non-road sources.

ERG has successfully completed surveys of the surface mining, large fleets, railway support equipment and recreational marine sectors and have what they need to model emissions estimates from those groups. Surveys of the utility sector, logging sector, special projects and generators/compressors are on track but not yet completed. Challenges remain with the highway construction, commercial, agricultural, and single-family home construction sectors. ODOT recently provided a robust data set for highway construction, currently being processed for inclusion in the final materials.

Due to delays in getting the needed data DEQ extended the contract with ERG in a no-cost manner, and expects the final report in the first part of 2020.

2.2 VW Settlement Fund Activity

Oregon DEQ continues to reduce diesel emissions by replacing and retrofitting school buses with Volkswagen Settlement funds. To date we have obligated \$2.1M to address 65 buses, removing approximately 18 tons of harmful nitrogen oxides and 1.5 tons of carcinogenic particulate matter from Oregon's air. DEQ is on track to provide funding for retrofits of at least 450 school buses over the next 3.5 years, with a total expected cost of \$18 to \$22 million. The 2019 Oregon Legislature provided additional direction in HB 2007 for how DEQ will spend the remainder of Oregon's \$72.9M in VW Settlement funds. Based on this direction, DEQ will establish a new Clean Diesel Initiative grant program to reduce diesel emissions from trucks and equipment with a preference for projects in Multnomah, Clackamas and Washington Counties. DEQ may propose new administrative rules to the EQC in the coming months to define and implement the expanded grant program.

2.3 Diesel Emissions Reduction Act Grant

Fiscal Year 2017-2018 Diesel Emissions Reduction Act grants experienced EPA award delays and internal review process delays over the last 10 months. Three buses were replaced with the first two completed projects totaling \$82,721 in project grants. Projects are currently under way with two school districts to replace seven buses with \$187,000 obligated. Six more districts representing 11 buses are at the initial project review stage but have not yet signed agreements. At this point 21 percent of the available \$1.3 million in grant funds have been obligated and DEQ continues to solicit more project partners from eligible school districts. In order to complete work under the FY 2017-2018 EPA grant, DEQ expects to request and receive from EPA a nine-month no-cost project extension out to June 30, 2020.

In addition, the FY 2019 application for the DERA State allocation has been submitted. Funds distributed under this two-year project are expected to become available Oct. 1, 2019.

2.4 House Bill 2007, Diesel Legislation

This bill added several new requirements for medium and heavy-duty diesel trucks. The majority of the new legislation applies exclusively to Multnomah, Clackamas and Washington counties. DEQ will need to develop proposed rules to administer new titling and phase out requirements for certain model year on-road diesel engines, establish criteria for certification of approved retrofit technologies and determine a process for issuing retrofit certifications. In addition, the bill created a voluntary nonroad equipment labeling program, the details of which will need to be described in rule. DEQ is also required to establish minimum standards for both on road and nonroad diesel engines used on certain public improvement contracts. Each of these rules will be brought before the EQC in the near future.

2.5 Oregon Clean Vehicle Rebate Program

As of July 2, 2019, the Oregon Clean Vehicle Rebate Program has approved 2227 rebates resulting in over \$ 5.35 million awarded to applicants. Of those applications, DEQ has awarded 121 rebates to dealership-sponsored applicants in which dealers can provide “cash on the hood” to applicants; DEQ has agreements with 47 dealerships across the state to do so. To date, the program has received over 4000 rebate applications. This program is intended to be run by a contractor and contract negotiations with the third-party contractor are nearly complete, which will allow the contractor to operate the program and conduct extensive education and outreach.

During the 2019 Legislative session, House Bill 2529 passed resulting in additional modifications to the program:

- Allowing new and used plug-in hybrid vehicles to be eligible for both the Charge Ahead rebate and the rebate for low and moderate income households.
- Pro-rating the payback amount if a rebate recipient does not retain registration of the electric vehicle in Oregon for two years.
- Providing an additional six-month window to allow people who may have purchased or leased an electric vehicle between Jan. 1, 2018, through Aug. 2, 2018 to apply for the rebate.

2.6 Gasoline Distribution Facilities: “Stage II” Vapor Recovery Systems

DEQ air quality staff have begun to evaluate rule revisions that may modify or remove requirements for at-the-pump gasoline vapor recovery, called “Stage II” vapor recovery systems. Since 2012, EPA has allowed states to remove these requirements from their state implementation plans because more than 70 percent of vehicles nationwide are equipped with on-board vapor recovery, and Stage II systems can be considered redundant. Emissions analyses have shown that a Stage II system that is incompatible with a vehicle’s on-board system may increase emissions. DEQ’s current rules (OAR 340-242-0500 through 0520) require Stage II vapor recovery for certain gasoline dispensing facilities in Multnomah, Washington and Clackamas Counties. To date, DEQ has opted to leave Stage II requirements in place for several reasons including an older Oregon vehicle fleet, container and non-road refueling, a potentially lower ozone standard, and air toxics reduction.

In 2018, DEQ met with Southwest Clean Air Agency (Washington) to discuss coordinating our respective agencies’ rulemakings related to Stage II. Fuel retailer representatives have also inquired with DEQ about the agency’s plans for Stage II rule revisions. This summer, DEQ air planning and operations section staff are researching and evaluating multiple aspects of Stage II rule revisions and the related environmental outcomes of potential changes. In the coming months, DEQ will likely inform EPA of our intent to revise our state implementation plan and begin the rulemaking process by early 2020.

2.7 Clean Car Standards

The U.S. EPA and the National Highway Safety Administration have recently proposed to roll back the federal clean car standards. These rules, known as the Safer Affordable Fuel Efficient (SAFE) Vehicles Rule would freeze the greenhouse gas and fuel efficiency standards for cars and trucks for the 2020-2026 model years. The rule also proposes to revoke California’s waiver, which allows California to set more stringent motor vehicle emission standards than those set by the federal Clean Air Act. Oregon is one of 12 other states that have adopted California’s stricter emissions standards and they are a key element in helping the state achieve its long-term greenhouse gas emissions reduction goal. The federal SAFE rule is expected to be finalized in late summer 2019.

3. Land Quality Division

3.1 Hazardous Waste Program Authorization

The State of Oregon’s DEQ Hazardous Waste program applied to EPA to revise the state’s authorized Hazardous Waste program under the federal Resource Conservation and Recovery Act. The current application seeks to revise the authorized Hazardous Waste program to include 21 federal hazardous waste rules EQC adopted between April 2015 and July 2017. Since the approval of the Hazardous Waste program in 1986, eight additional revisions have been approved.

Later this year, EPA will review the State of Oregon's application to make a preliminary determination if changes identified in Oregon's program revision meet all statutory and regulatory RCRA requirements. Through the public process, EPA will make the application available during a 30-day comment period, and will respond to comments in the Federal Register. If approved, EPA's Region 10 Regional Administrator will sign to formally authorize Oregon's program.

3.2 Spill Response of the Fishing Vessel, Ann Kathleen

On May 2, DEQ responded to a burning fishing vessel (the Ann Kathleen) carrying 2000 gallons of diesel, which made landfall on a remote beach south of Bandon. The beach was home to snowy plovers and it is nesting season, so it was important to remove any remaining fuel from the vessel before it could pollute the beach and effect these birds, which are listed as threatened in Oregon. There was no vehicular access to the site and there were many tribal cultural interests in the immediate vicinity of the grounded vessel. A DEQ State On-Scene Coordinator was on site while headquarters staff performed liaison functions with various state, federal, and tribal interests with jurisdiction over the area.

DEQ developed a plan for removal of the fuel from the vessel with minimum threat to the snowy plover or cultural resources. DEQ also oversaw the removal of 1600 gallons of diesel fuel and contaminated water by helicopter, averting a much larger release. Key stakeholders included Oregon State Parks, State Historic Preservation Office, Oregon Department of Fish and Wildlife, DEQ, U.S. Coast Guard, U.S. Fish and Wildlife, Bureau of Land Management, tribal interests, property owners, and the vessel operator. DEQ staff spent a combined 93 hours on this response in May.

3.3 Reduce, Reuse and Recycle Grant Opportunity: Solicitation Period Starts July 19

Since 1991, DEQ's Materials Management Grant Program has awarded over \$9 million in grants. This total includes grants for projects that reduce waste generation; promote reuse; recover solid waste through recycling, composting or anaerobic digestion; or otherwise support [Oregon's 2050 Vision for sustainable materials management](#).

This year, the [Materials Management Grant Program](#) seeks to foster [new partnerships between community-based organizations \(CBOs\) and environmental organizations in Oregon](#). In reviewing potential projects for funding, DEQ will give focus points to projects involving two or more organizations where materials management outcomes assist a local community in Oregon. To be eligible for focus points, applicants must show in their application that the project implementation includes extensive involvement from a CBO that is representative of or has successfully served the target community.

DEQ is listing examples of eligible projects on its [website](#). Such projects include a nonprofit organization with expertise in clothing repair hosting a series of repair workshops in a community represented by a CBO, and a nonprofit providing bilingual services for hearings,

workshops and outreach in non-English speaking communities on materials management projects.

DEQ's solicitation period for planning and project grants will span July 19 to Oct. 4, 2019. A total of \$600,000 will be available in 2019 for grants. Local governments, tribal governments, nonprofit organizations and schools (for food waste prevention projects only) are eligible to apply. DEQ will host webinars to answer questions about the application document on August 5 for the general public and a meeting specific for Oregon Tribes Aug. 14, 2019.

4. Water Quality Division

4.1 Klamath Temperature TMDL

In May, DEQ issued a proposed Total Maximum Daily Load, or TMDL, for controlling temperature pollution in the Klamath and Lost River watersheds. The TMDL analyzes sources of temperature pollution and identifies pollution reduction efforts necessary to improve water quality in the Klamath and Lost Rivers and streams in those watersheds. Temperature increases in rivers and streams can be harmful to fish and other aquatic life, worsen other ecological factors in the waterways, and threaten beneficial uses like fishing and recreational activities.

The federal Clean Water Act requires a TMDL for water bodies that do not meet federal water quality standards. A TMDL identifies a pollutant load allocation for each source. The pollutant limits in this TMDL are strict by comparison to many others.

The TMDL includes a list of the cities, counties, federal and state agencies, irrigation districts and industries that have responsibility for reducing pollution under their control. DEQ will work with these entities to develop and implement management plans to improve water quality. There may be opportunities to meet requirements through pollutant trading or allocation redistribution.

The draft temperature TMDL for the Klamath and Lost River basins will be finalized and submitted to EPA in September to meet a federal court deadline. The comment period on the draft closes on Monday, July 15, and we are expecting comments from many interested parties. DEQ staff met with representatives of local wastewater permittees last week, and have met with other interested parties as well, including irrigation district representatives.

5. Eastern Region

5.1 Calico Resources Grassy Mountain Mine

Calico Resources USA Corp. (Calico), a wholly-owned subsidiary of Paramount Gold Nevada, is proposing to construct an underground gold mine, an indoor cyanide processing facility and a tailings storage facility on a site in Malheur County about 22 miles south-southeast of Vale. The site includes both private-patented and public lands managed by the U.S. Bureau of Land Management.

Oregon statutes provide a special consolidated permitting process for mines that use chemical processing. The Department of Geology and Mineral Industries, DOGAMI, manages the consolidated application process for chemical mining permits. Other agencies involved in the consolidated process include DEQ, Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Department of State Lands, Oregon Department of Agriculture, and the Department of Land Conservation and Development. The project coordinating committee includes all participating state agencies, local governments, BLM, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and Burns Paiute Tribe.

Oregon's consolidated permitting statutes require a company seeking permits to pay all expenses incurred by state permitting and cooperating agencies related to the consolidated application process (ORS 517.973). DOGAMI is the lead state agency for administering cost-recovery functions for the state permitting agencies. DEQ, ODFW and OWRD have interagency agreements with DOGAMI that provide for DOGAMI to invoice and collect agency expenses from Calico. DOGAMI has entered into contractual agreements to provide professional support and technical expertise to the state on the project.

Due to a lack of payments by Calico to DOGAMI, DOGAMI has suspended work until the invoiced payments are made by Calico to the State. Therefore, other state agencies and contractors have also suspended work and cost-recovery on continued project work is not anticipated. The Oregon Department of Justice is the lead communicator with Calico at this time.

5.2 Wallowa Lake Herbicide Drum Investigation (Wallowa County)

In June, DEQ assisted the U.S. EPA with an on-site investigation into reports of drums at the bottom of Wallowa Lake labeled with the herbicides "2,4-D or 2,4,5-T." Contrary to previous reports by recreational divers suggesting there may be dozens, EPA and DEQ's investigation found only one drum with the "2,4-D or 2,4,5-T" herbicide label. The investigation found 74 drums in the investigation area on the south side of Wallowa Lake, most of which were unlabeled. All 74 drums, including the one with the herbicide label, had holes and contained lake water.

Over the years, many 55-gallon drums have been filled with rocks and concrete and used as anchors for floating docks or filled with air and used as floats. EPA and DEQ concluded the drums found during this investigation are likely part of that history. EPA's contractors removed five drums that either appeared underwater to be intact or had a label indicating it may have previously contained a hazardous substance, including the drum with the herbicide label. EPA and DEQ determined the drums remaining at the bottom of the lake pose little or no risk to health and the environment. DEQ is working with local, state, and tribal partners to determine the best route forward for the remaining drums. Considerations include resource needs and how removal may affect habitat or other features of the area.

5.3 Threemile Canyon Farms Manure to Natural Gas Digester (Boardman)

DEQ issued a modified air quality permit on June 25 for a manure to natural gas digester that operates at Threemile Canyon Farms in Boardman. The company operating the digester, WOF PNW, was already producing biogas from methane and using it to generate electricity on site. The permit modification allows WOF to further treat its biogas to pipeline quality methane natural gas that can go onto the natural gas grid for use off-site. The permit regulates emissions from WOF PNW's manure digester, methane gas treatment system, and engines that produce electricity on-site. The permit does not cover other emissions from the dairy. Currently, dairies and CAFOs in Oregon are only required to obtain an air permit for operating manure digesters that produce biogas, which is the focus of this permit.

5.4 Malheur Lumber and Oregon Torrefaction Coal Replacement (John Day)

Malheur Lumber Company operates a lumber mill in John Day. The mill is converting some of its operations into a "torrefaction" facility. The torrefaction process heats and chars wood to create a solid piece of carbon that can replace coal in electric power plants. The proposed primary source of wood is dead trees and invasive juniper cleared from the Malheur National Forest.

After a public comment period, DEQ issued a modified air quality permit in June that increases emissions limits and allows the mill to operate the torrefaction equipment. While the permit allows for increased emissions, DEQ's analysis shows the air in the surrounding area will remain within federal air quality standards designed to protect public health.

Operations will be under Malheur Lumber's supervision in partnership with Restoration Fuels and its parent company Oregon Torrefaction LLC, a company created by the U.S. Endowment for Forestry and Communities. Oregon Torrefaction states this will be the first commercial producer of torrefied fuel in the world. The facility is designed to produce up to 100,000 tons per year of torrefied fuel. The product will be sold in bulk to utility customers. While the partners hope to work with domestic utilities, it is likely that the demand will first emerge in Asia. Regional Solutions has provided technical assistance and is helping the company work through the regulatory framework. Additionally, the Governor and Business Oregon awarded this project \$200,000 from the Strategic Reserve Funding to install a more efficient boiler that will be utilized by both Malheur Lumber and Restoration Fuels and will allow for increased production at Malheur Lumber Company. The companies hope to be in production by fall 2019.

6. Northwest Region

6.1 NW Metals

DEQ continues to pursue enforcement with NW Metals subsequent to the significant fire in March 2018 that impacted surrounding neighborhoods. NW Metals completed some portions of the work required under a DEQ order; however, it did not complete all the required work. DEQ participated in a three-day hearing before an administrative law judge to seek enforcement of the

full order, and required corrective actions. That hearing concluded in late June, with a ruling expected in the several months.

6.2 Harbor of Hope

In September 2018, DEQ approved a cleanup workplan for a property owned by Prosper Portland to be temporarily used as a location for a facility to provide services to houseless people. Winkler Development Corporation filed a complaint relating to DEQ's approval for the remedial action plan at the Northwest Portland site. This month Marion County Court granted Oregon DOJ/Oregon DEQ's motion to dismiss the complaint, which allows development to proceed for this community resource.

6.3 Port of Astoria Cleanup

DEQ issued a record of decision for a significant cleanup at the Port of Astoria. The decision is the culmination of 20 years of effort that included an extensive series of environmental investigations and feasibility studies, involving multiple responsible parties with varied interests and goals, and extensive public involvement. Significantly, implementation of the remedy will eliminate a re-occurring petroleum sheen on the Columbia River and help resolve environmental liabilities for the Port of Astoria and other parties.

6.4 Blue Heron Mill

On June 12, the Confederated Tribes of Grand Ronde announced their plans to purchase the 23-acre Blue Heron Mill site in Oregon City adjacent to Willamette Falls. DEQ responded to the tribe's request to enter into a Consent Order for a Prospective Purchaser Agreement. The public comment period for the PPA is July 1-31, 2019, and a DEQ will host a public meeting about the agreement on July 17 in Oregon City.

6.5 Columbia Pacific Biorefinery

The public comment period is currently open for Columbia Pacific Biorefinery's Air Contaminant Discharge Permit specific to ethanol production and shipping of ethanol produced by the facility. The public hearing for this permit renewal is July 24 in Clatskanie.

Transloading and storage of ethanol and crude not produced by the facility are covered under a separate ACDP. That permit is set to expire Aug. 1, 2019, and the facility submitted an application to renew the permit on June 3, 2019. DEQ is reviewing the application materials and plans to issue a draft permit for public comment in late 2019 or early 2020.

6.6 Zenith Terminals

DEQ is reviewing Zenith Terminal's Title V permit renewal application. The facility in Northwest Portland is permitted for crude oil and petroleum products storage and transloading. DEQ will draft the permit over the next several months and provide an update to the commission prior to the start of the public comment period.

7. Western Region

7.1 Jordan Cove/Pacific Connector Pipeline

In May 2019, DEQ denied without prejudice Jordan Cove Energy Project L.P.'s application for a Section 401 Water Quality Certification. DEQ denied the certification because there was insufficient information to demonstrate compliance with water quality standards, and because the available information shows that some standards will likely be violated. Jordan Cove wants to build a liquefied natural gas export facility on 500 acres of the North Spit of Coos Bay, near North Bend. The facility would be able to export up to six million metric tons of liquefied natural gas per year. The project would also include a 229-mile natural gas pipeline called the Pacific Connector between the Jordan Cove facility and Malin in Klamath County.

In June, DEQ staff had numerous meetings with Jordan Cove staff to discuss a possible new application, and issues identified regarding the prior application. We do not currently have a clear indication that there will be a new application, but it seems likely that we will get that clarity in the next few weeks.

7.2 Willamette Basin Mercury TMDL/Changes to National Pollutant Discharge Elimination System 700 Placer Mining permits

DEQ is working to revise the mercury Total Maximum Daily Load for the Willamette Basin. A Total Maximum Daily Load or TMDL is a plan to restore a waterway that is considered impaired, or unable to meet water quality standards, under the federal Clean Water Act. A TMDL identifies the maximum amount of a pollutant a waterbody can receive while still meeting water quality standards.

A number of fish consumption advisories are in place for mercury in the basin. DEQ's proposed TMDL revisions would require a number of facilities throughout the basin to reduce the mercury they discharge, and would also require reductions in mercury coming from nonpoint sources.

One area-specific source of mercury in fish is suction dredge mining occurring in streams flowing into Dorena Reservoir. To help meet these new mercury reductions, DEQ is proposing to ban suction dredge mining in waterbodies that flow to the Dorena Reservoir starting Jan. 1, 2020. This includes Row River, Brice Creek, Sharps Creek and Champion Creek.